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Attorneys for Defendant,
Costco Wholesale Corporation

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Dora Uriarte,)	Case No.
Plaintiff,)	NOTICE OF REMOVAL
vs.)	
Costco Wholesale Corporation,)	
Defendant.)	

Defendant Costco Wholesale Corporation ("Costco"), hereby gives Notice that it is removing this action from Maricopa County Superior Court to the United States District Court for the District of Arizona pursuant to 28 U.S.C. §§ U.S.C. 1332, 1441, and 1446 for the following reasons:

A. THIS COURT HAS DIVERSITY JURISDICTION PURSUANT TO 28 U.S.C. § 1332

The Court determines diversity jurisdiction at the time of removal. *See St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 292 (1938). A defendant seeking removal has the burden to establish this Court's jurisdiction. *See Geographic Expeditions, Inc. v. Estate of Lhotka*, 599 F.3d 1102, 1107 (9th Cir. 2010).

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1 **1. There is Complete Diversity Among the Legitimate Parties.**

2 (a) Plaintiff Dora Uriarte is an individual residing in the State of
3 Arizona. *See* Complaint, CV2022-012364, Superior Court of Arizona, Maricopa
4 County, ¶ 1. Plaintiff thus is a citizen of Arizona for purposes of 28 U.S.C. § 1332(a).

5 (b) Defendant Costco is a Washington corporation with its principal
6 place of business in Issaquah, Washington. Costco, therefore, is a citizen of
7 Washington for purposes of 28 U.S.C. § 1332(a).

8 **2. The Amount in Controversy Exceeds \$75,000.00.**

9 With the initial Complaint, which Plaintiff filed on September 19, 2022,
10 Plaintiff certified that she sought less than \$50,000.00 *See* Certificate of Compulsory
11 Arbitration, CV2022-012364, Superior Court of Arizona, Maricopa County; *see* also
12 Ariz. R. Civ. P. 72. On May 24, 2023, Plaintiff disclosed \$54,113.00 in alleged future
13 medical care. Said disclosure increased Plaintiff's total past and future medical
14 expenses to approximately \$70,000.00. On July 5, 2023, Plaintiff conveyed a
15 settlement demand of \$105,903.00. Until Plaintiff's July 5, 2023 demand, Plaintiff
16 had not conveyed a settlement demand in excess of \$50,000.00. Accordingly, the
17 amount in controversy exceeds the minimum requirement for diversity jurisdiction.

18 **3. Costco Has Met Its Burden.**

19 Based on the foregoing, complete diversity of citizenship exists, and Costco has
20 established by a preponderance of the evidence that the amount in controversy exceeds
21 \$75,000.00. 28 U.S.C. § 1446(b)(2); *see also Geographic Expeditions, Inc. v. Estate*
22 *of Lhotka*, 599 F.3d 1102, 1107 (9th Cir. 2010). As such, Costco has met its burden
23 to establish jurisdiction of this Court.

24 **B. THIS NOTICE OF REMOVAL IS TIMELY AND COMPLIES WITH**
25 **THE STATUTORY REQUIREMENTS.**

26 A notice of removal must be filed within 30 days of the date on which the case
27 first became removable. 28 U.S.C. § 1446(b)(3). Here, Plaintiff filed the Complaint
28 in Maricopa County Superior Court on September 19, 2022. With the Complaint,

1 Plaintiff filed a Certificate of Compulsory Arbitration in which Plaintiff certified that
2 she was seeking less than \$50,000.00 in damages. Thus, the Complaint was not
3 initially removable. As noted above, Plaintiff conveyed a demand on July 5, 2023 in
4 the amount of \$105,903.00. Prior to July 5, 2023, Plaintiff had not conveyed a demand
5 in excess of \$50,000.00. Accordingly, this matter did not become removable until July
6 5, 2023, after which Costco was afforded 30 days to file this Notice of Removal.

7 Pursuant to 28 U.S.C. § 1446(d) and LRCiv 3.7(a), Costco has filed a copy of
8 this Notice of Removal with the Superior Court of Arizona, Maricopa County and
9 served it on Plaintiff.

10 Pursuant to 28 U.S.C. § 1446(a), copies of the documents filed in the state court
11 are attached as Exhibit A.

12 WHEREFORE, Costco gives notice that the action pending against it in the
13 Superior Court of Arizona, Maricopa County, has been removed to the United States
14 District Court for the District of Arizona, Phoenix Division.

15 Dated: July 24, 2023

BREMER WHYTE BROWN & O'MEARA
LLP

16
17 By: /s/ John Belanger

18 John J. Belanger, Esq.
19 Ryan S. Leibel, Esq.
20 Attorneys for Defendant
21 Costco Wholesale Corporation
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CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2023, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF Registrants, as well as e-mailed a copy as follows:

slgarizona@gmail.com

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Scottsdale Arizona 85254
Attorneys for Plaintiff

By: /s/ DD Waldron